

## BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

<b>IN THE MATTER OF THE APPLICATION OF )          IDAHO POWER COMPANY FOR APPROVAL OF )          A PROPOSED STATEMENT OF POLICY AND )          CODE OF CONDUCT COVERING )          TRANSACTIONS BETWEEN IDAHO POWER )          COMPANY AND IDACORP ENERGY )  <u>SOLUTIONS LP, AN AFFILIATED COMPANY. )</u> </b>	<b>CASE NO. IPC-E-01-2</b>  <b>ORDER NO. 29549</b>
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On June 16, 2004, Idaho Power Company (Idaho Power, Company) filed a “Motion to Dismiss for Mootness” in Case No. IPC-E-01-2, a case that sought to develop a code of conduct for Idaho Power’s marketing affiliate, IDACORP Energy (IE). No party filed a timely objection. In this Order, the Commission grants Idaho Power’s request to dismiss this case for mootness as set out in greater detail below.

### BACKGROUND

In Commission Order No. 28596 issued in Case No. IPC-E-00-13, the Commission authorized Idaho Power to enter into an Agreement for Electricity Supply and Management Services (“Agreement”) with its affiliate IDACORP Energy Solutions, LLP (“IES”). IES subsequently changed its name to “IDACORP Energy” (“IE”). Idaho Power is, and IES and IE were, wholly-owned subsidiaries of IDACORP, Inc. The activities of IES and IE were not regulated by the Commission except for transactions with Idaho Power.

In Order No. 28596, the Commission stated that the Statement of Policy and Code of Conduct submitted with the Company’s Application required further development and the opportunity for public input. In Order No. 28596, the Commission directed Idaho Power to make a formal filing within 30 days of a proposed policy and code of conduct for affiliate relationships. In the interim, the Commission found it reasonable that the Company and IE conduct relationships between themselves in accordance with the Statement of Policy and Code of Conduct outlined in the Company’s Application.

On January 18, 2001, Idaho Power made the compliance filing discussed in Order No. 28596 and requested that the Commission approve a proposed Statement of Policy and Code of Conduct covering transactions between Idaho Power and IE. On March 5, 2001, in Order No.

28649, the Commission bifurcated the Company's Application into two separate proceedings. In this case, Case No. IPC-E-01-2, the Commission would consider the Statement of Policy and Code of Conduct between Idaho Power and IE. Under Case No. IPC-E-01-8, the Commission would consider the Code of Conduct that would be applicable to other IDACORP subsidiaries and Idaho Power affiliates. Subsequently, the Commission approved petitions to intervene in this case filed by Astaris, LLC, Power Development Associates, LLC and the Industrial Customers of Idaho Power.

In the summer of 2002, IDACORP decided to withdraw from the wholesale power marketing business and began winding up IE's power marketing business. As of the date of this Motion, IDACORP has sold IE's assets, discharged IE's employees and IE has ceased to operate as a going concern. IE's remaining activities consist primarily of defending several pending lawsuits.

### **IDAHO POWER'S MOTION TO DISMISS**

As a result of the closing of IE and resolution of all issues arising out of or relating to Idaho Power's business transactions with IE in the -16 Case, Idaho Power asserts there is no need for the Commission to further consider a Statement of Policy or Code of Conduct to cover transactions between Idaho Power and IE. There will be no future transactions between Idaho Power and IE because the issues originally intended to be addressed in this proceeding are moot. "A case becomes moot when 'the issues presented are no longer live or the parties lack a legally cognizable interest in the outcome.'" *Idaho Sch. for Equal Educ. Opportunity v. Idaho State Bd. of Educ.*, 128 Idaho 276, 281, 912 P.2d 644, 649 (1996) (quoting *Bradshaw v. State*, 120 Idaho 429, 432, 816 P.2d 989 (1991)).

Based on the foregoing, Idaho Power requested the Commission dismiss this case with prejudice on the grounds that it had become moot.

### **DISCUSSION AND FINDINGS OF FACT**

In Commission Order No. 28596 issued in Case No. IPC-E-00-13 the Commission authorized Idaho Power to enter into an Agreement for Electricity Supply and Management services ("Agreement") with IES and stated that the Statement of Policy and Code of Conduct, submitted with the Company's Application, required further development and the opportunity for public input. Order No. 28596 at 11, Case No. IPC-E-00-13. This case was created specifically to address the code of conduct between Idaho Power and IES. Order No. 28649. Because IE no

longer operates and no party filed a timely objection to Idaho Power's Motion to Dismiss, we find it reasonable to close out this case.

The Commission continues to find that a code of conduct governing transactions between affiliates is necessary to: (1) direct corporate conduct and avoid issues of self-dealing, and (2) provide a framework to determine if cost recovery for affiliate transactions should prudently be included in rates. We also find that Case No. IPC-E-01-8 remains open to address any affiliate transaction issues that remain with other Idaho Power affiliates. We encourage the parties to work diligently to create a comprehensive code of conduct in that case and file it with the Commission in the near future.

### **ORDER**

IT IS HEREBY ORDERED that Idaho Power Company's Motion to Dismiss Case No. IPC-E-01-2 for mootness is granted.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. IPC-E-01-2 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this order or in interlocutory Orders previously issued in this Case No. IPC-E-01-2. For purposes of filing a petition for reconsideration, this order shall become effective as of the service date. *Idaho Code* § 61-626. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

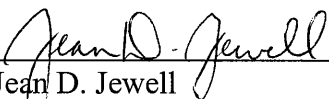
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 29<sup>th</sup>  
day of July 2004.

  
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PAUL KJELLANDER, PRESIDENT

  
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MARSHA H. SMITH, COMMISSIONER

**Out of the Office on this Date**  
DENNIS S. HANSEN, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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